

**ANNEX III**

**BRAZILIAN AERONAUTICAL COMMISSION IN WASHINGTON D.C.**



**CONTRACT No. 004/CABW/2022**

**BIDDING PROCESS No. 221692/CABW/2022**

**PAG No. 67102.221692/2022-74**

**[CONTRACT DRAFT]**



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PAG No.: **67102.221692/2022-74**  
CONTRACT No.: **004/CABW/2022**

CONTRACTING OF A SPECIALIZED COMPANY FOR UP TO 180 FLIGHT SIMULATOR TRAINING HOURS IN THE VH-35 (EC-135) AIRCRAFT SIMULATOR EQUIPMENT, WITHOUT INSTRUCTOR (DRY), WHICH THE BRAZILIAN FEDERAL GOVERNMENT HEREBY ENTERS INTO, THROUGH THE BRAZILIAN AERONAUTICAL COMMISSION IN WASHINGTON, AND THE COMPANY **[COMPANY'S NAME]**.

The Brazilian Federal Government, through the Brazilian Aeronautical Commission in Washington, with main offices located at 1701 22<sup>nd</sup> St N.W. Washington, D.C. 20008, represented herein by **Col WILSON PAULO CORRÊA MARQUES**, in the use of his legal attributions, as per Directive n° 50, issued by the Ministry of Aeronautics on January 29, 1953, and as per Art. 61 of the Brazilian Federal Law No. 8,666/93, hereinafter referred to as the CONTRACTING PARTY, and the company **[COMPANY'S NAME]**, with main offices located at **[CITY]**, ZIP **[POSTAL CODE]**, in the Municipality **[STATE/MUNICIPALITY]**, hereinafter the CONTRACTED PARTY, represented herein by Mr. **[LEGAL REPRESENTATIVE'S NAME]**, bearer of ID n° **[ID NUMER]**, and bearing in mind the content of PAG n° 67102.221692/2022-74, and the final result of Bidding Process IFB No. 221692/CABW/2022, based on the guidelines of the Brazilian Federal Law No. 8,666/93, the Decree No. 2.271, of 1997, and the Normative Instruction SLTI/MPOG No. 2, of April 30, 2008, and any related legislation, hereby decide to enter into this contract agreement, in accordance with the following terms and conditions:



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## 1. DEFINITIONS

**1.1.** In order to facilitate the comprehension of terminology and to simplify text composition, the following abbreviations and expressions were adopted, followed by their definitions hereafter:

**1.2. THE ADMINISTRATION** – The Brazilian Federal Government;

**1.3. COMAER** – The Brazilian Air Force Command;

**1.4. COMREC** - Goods and Services Receiving Commission;

**1.5. CONTRACTED PARTY** – The individual or legal organization contracted to perform the required services;

**1.6. CONTRACTING PARTY** – The Brazilian Aeronautical Commission in Washington, DC (BACW);

**1.7. EXPENSE CONTRACT** or **CONTRACT** - The Agreement which the Public Administration (CONTRACTING PARTY), acting as such, signs with a private individual or other Administrative Organization (CONTRACTED PARTY), for the performance of the services required and under the conditions set forth by the Brazilian Public Administration;

**1.8. EXPENSES SUPERVISOR** – A Public Administration Agent with the authority to perform acts resulting in funds citations, payments authorization, funds supply, approvals estimation, among other duties;

**1.9. FAB** – The Brazilian Air Force;

**1.10. ICA** – The Aeronautical Command Directive;

**1.11. INVOICE** – A commercial document formalizing a purchase and sale abroad, which must contain - among other information - the following data: supply quantity, supply unit, price, payment terms, taxes, duties and the FAB Purchase Order Number;

**1.12. MO** - Military Organization;

**1.13. MONITOR** - The individual or commission representing the CONTRACTING PARTY to the CONTRACTED PARTY, appointed to systematically monitor the fulfillment of contractual terms and complementary orders issued by the Brazilian Federal Government, in all their aspects;

**1.14. PAAI** – A formal internal administrative procedure which consists in the registration of all acts to determine the administrative facts necessary to clarify and review judgments of the competent authority, allowing due process, which will culminate in the implementation or not of the administrative sanctions provided for in the Law (ICA 12-23);

**1.15. PAG** – Administrative Management Process;

**1.16. BASIC PROJECT** - As per the Brazilian Federal Law No. 8.666, dated June 21, 1993, the set of necessary and sufficient elements, with the necessary degree of precision, to define the project, service or body of work, which will constitute the Bid Subject. It is drafted based on the suggestions drawn from preliminary technical studies, which ensure technical feasibility and adequate treatment of the project's environmental impact, as well as evaluating the project or service's costs, defining the methods and terms for its performance;

**1.17. TERM OF RECEIPT** – A document issued by the COMREC attesting and accepting the services performed.



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## 2. CLAUSE – OBJECT

2.1. The contracting of **180-hour "DRY" training services in the VH-35 (EC-135) aircraft flight simulator equipment**, in order to meet the needs of the COMAER, in accordance with the specifications set forth in the BASIC PROJECT and in its Appendix A - Technical Data Sheet, according to the conditions, quantities and expectations established in this document, and in the table below:

ITEM	ODGSA	QTD OF HOURS / IOS	AIRCRAFT	CATEGORY	GUY	REFERENCE UNIT VALUE (USD)	TOTAL REFERENCE VALUE (USD)
1	GABAER	180 hours	EC-135 (VH-35)	D	DRY	1.114,76	200.657,40
2	GABAER	5 IOS	EC-135 (VH-35)	D	DRY	Free Of Charge	Free Of Charge

2.2. The estimates detailed in this CONTRACT do not imply any obligation by the CONTRACTING PARTY.

2.3. The following annexes are integral parts of this contract, regardless of whether or not they are herein transcribed:

**ANNEX A – BASIC PROJECT;**

**ANNEX B – PRICE PROPOSAL FROM THE CONTRACTED PARTY;** and

**ANNEX C – PHYSICAL AND FINANCIAL SCHEDULE.**

## 3. CLAUSE – PERFORMANCE

3.1. The CONTRACT shall be performed on the basis of indirect execution of Lowest Unit Price.

## 4. CLAUSE – LANGUAGE

4.1. It is hereby agreed by the parties that the language of this CONTRACT, for the purpose of documentation, correspondence, and any other interests shall be **English**.

## 5. CLAUSE – CONDITIONS TO PROVIDING THE SERVICE

5.1. The services shall be performed by the CONTRACTED PARTY as described herein and in accordance with the BASIC PROJECT, Annex A.

5.2. The CONTRACTED PARTY shall maintain all the conditions for qualification during the bidding process throughout the validity of this CONTRACT.

## 6. CLAUSE – OBLIGATIONS

6.1. In addition to that set forth in the BASIC PROJECT, the **CONTRACTED PARTY** shall be required to:

6.1.1. Perform services in accordance with the specifications in the BASIC PROJECT and its proposal, with the resources necessary for full compliance with the provisions of the CONTRACT;



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- 6.1.2.** Strictly observe specifications and instructions contained in the Invitation for Bid;
- 6.1.3.** Take full responsibility for the performance of the contracted services;
- 6.1.4.** Ensure supply of all material and equipment required for full and perfect fulfillment of contractual obligations;
- 6.1.5.** Take responsibility for the selection, qualification, transportation, meals, lodging, contracting and termination of its employees, as well as for their legal situation with labor, transit, insurance, employment taxes and withholdings, health and welfare authorities. The CONTRACTED PARTY's failure to fulfill the obligations set forth herewith does not make the CONTRACTING PARTY responsible for payment;
- 6.1.6.** Take responsibility, furthermore, for damages caused to the CONTRACTING PARTY, arising from the performance of services by CONTRACTED PARTY'S employees or appointed agents;
- 6.1.7.** Provide all clarifications requested by the CONTRACTING PARTY, immediately addressing any complaints;
- 6.1.8.** Replace, at no cost to the CONTRACTING PARTY, all material or equipment provided that suffers from any type of damage caused by poor use by its employees, or which has been rejected during inspection tests;
- 6.1.9.** The CONTRACTED PARTY is prohibited from disclosing to third parties any information regarding the nature or progression of service performance contemplated by this Contract, as well as from notifying the press or media, including print, television, radio, internet and/or any other means of public disclosure, except with explicit consent of the CONTRACTING PARTY.
- 6.1.10.** Bear all civil liability for each and every performed services and for damages caused by action or omission on the part of CONTRACTED PARTY'S employees, workers, agents, or representatives, whether intentionally or not, before the Brazilian Government (Brazilian Air Force Command) and other third parties;
- 6.1.11.** Use qualified employees who have essential knowledge of the services that will be performed in accordance with the rules and regulations in effect;
- 6.1.12.** Be responsible for all labor, social, and tax obligations, as well as for any other duties or obligations provided for under specific legislation, the violation of which shall not carry a liability to the CONTRACTING PARTY;
- 6.1.13.** Instruct its employees on the need to follow the guidelines provided by the CONTRACTING PARTY, including with regard to CONTRACTING PARTY'S internal regulations, if any;
- 6.1.14.** Maintain throughout the term of the Contract, consistent with the obligations assumed, all conditions of eligibility and qualification required in the bidding process;
- 6.1.15.** Not transfer to third parties, in any way, not even partially, any of the responsibilities assumed without the express prior written approval of the BACW in accordance with the terms of this CONTRACT;
- 6.1.16.** Be responsible for any costs resulting from any possible mistakes made in calculating the quantitative items in its proposal, including with regard to variable costs associated with future and uncertain facts, being responsible for covering those items



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should what was initially provided for in its proposal not be enough to perform the object of the bidding process.

**6.1.17.** All services performed by the CONTRACTED PARTY shall be the responsibility of the CONTRACTED PARTY and shall be performed in accordance with the CONTRACT;

**6.1.18.** The CONTRACTED PARTY shall not perform any extra service without first providing an estimated budget, which is to be formally authorized by the CONTRACTING PARTY;

**6.1.19.** The CONTRACTED PARTY shall appoint a Manager for the purpose of overall management of the activities/services, following up on the CONTRACT and representation with the CONTRACT MONITOR;

**6.1.20.** Comply with all the CONTRACTING PARTY's requirements, especially those related to deadlines, performance and conclusion of the contracted services, as well as the requirements related to the services under special deadline, priority and emergency;

**6.1.21.** Abide by BACW's business hours, and according to its convenience or need for any change, communicate the change to the CONTRACT MONITOR, with at least 24 (twenty four) hours in advance;

**6.1.22.** Be responsible for any claims and financial burden that may arise from any law suits, or damage caused directly or indirectly by the CONTRACTED PARTY, and that may possibly be argued against BACW, by third parties;

**6.1.23.** Promptly communicate, in writing to BACW, any and all information related to any errors, mistakes or flaws found in the BASIC PROJECT;

**6.1.24.** Use of adequate equipment and tools, to allow for proper execution of the services, and utilize efficient and safe work methods;

**6.2.** The **CONTRACTING PARTY** shall be required to:

**6.2.1.** The CONTRACTING PARTY, through the assistance of the CONTRACT MONITOR, duly designated for that function, shall:

**6.2.1.1.** Appoint a RECEIVING COMMISSION (COMREC), through Internal document, to carry out receipt of the qualitative and quantitative object of the CONTRACT;

**6.2.1.2.** Provide all the conditions for the CONTRACTED PARTY to be able to perform its services in accordance with the provisions of the CONTRACT, the Invitation to Bid and its Annexes, and particularly the BASIC PROJECT;

**6.2.1.3.** Require compliance with all obligations assumed by the CONTRACTED PARTY in accordance with the provisions of the CONTRACT and the terms and conditions of its proposal;

**6.2.1.4.** Provide monitoring of services by an official specifically designated for that purpose, who shall record in his own log any flaws found;

**6.2.1.5.** Notify the CONTRACTED PARTY in writing of the occurrence of any irregularities during the performance of services, and establish a deadline for their correction;



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**6.2.1.6.** Pay the CONTRACTED PARTY the amount due for the provision of services, as established in the CONTRACT through the receipt and acceptance of an INVOICE; and

**6.2.1.7.** See to it that, throughout the term of the CONTRACT, all conditions of eligibility and qualifications required in the bidding process are maintained, consistent with the obligations assumed by the CONTRACTED PARTY.

## **7. CLAUSE – DISCRIMINATION OF SERVICE**

**7.1.** The CONTRACT shall be performed by the CONTRACTED PARTY as described herein and in the BASIC PROJECT, Annex A.

## **8. CLAUSE – AMOUNT OF THE CONTRACT**

**8.1.** The maximum total amount of the CONTRACT is US\$ [AMOUNT], with the value of US\$ [AMOUNT], being initially provided through the Purchase Order n° [PO NUMBER], leaving US\$ [AMOUNT], remaining for the above-mentioned Purchase Order.

**8.1.1.** The price per hour of the object of this contract is US\$ [AMOUNT], in accordance with the price proposal, Annex B.

**8.1.2.** The price per instruction of Simulator Operators Training (IOS) is US\$ [AMOUNT], in accordance with the price proposal, Annex B.

## **9. CLAUSE - BUDGETARY ALLOCATION**

**9.1.** Financial resources shall be drawn from Program 2916 or similar, Expenditure Item 33.90.39.

## **10. CLAUSE - SUBCONTRACTING**

**10.1.** Sub-contracting is not authorized under this CONTRACT.

## **11. CLAUSE - TERMS**

### **11.1. Term of Validity**

**11.1.1.** The Contract's period of validity shall be 12 (twelve) months, starting on the date of its signature, including its performance time, acceptance time and term established for the final payment.

**11.1.2.** The validity may be extended by mutual agreement between the parties for an additional equal period of 12 months, if it is in the CONTRACTING PARTY's interest, up the overall limit of 60 months.

### **11.2. Term of Execution**

**11.2.1.** The period of execution of the CONTRACT shall be 12 months, starting at the contract's signature date.

### **11.3. Acceptance Timeframe**





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**11.3.1.** The services shall be definitively received by COMREC, through a TERM OF RECEIPT, signed by the parties within 10 (ten) days of written notification by the CONTRACTED PARTY.

**11.3.2.** Final acceptance does not exclude civil responsibility for the reliability and safety of the service, or ethical/professional responsibility for the perfect performance of the contract.

**11.4. Payment Processing Time**

**11.4.1.** Payment processing time for Commercial Invoices shall not exceed 30 consecutive days, starting on the date on which the TERM OF RECEIPT is issued, signed by COMREC.

**11.4.2.** This term shall renew automatically for a 10 (ten) business days if there is any discrepancy noted by the MONITOR and mandatorily notified in writing to the CONTRACTED PARTY.

**12. CLAUSE - FINANCIAL GUARANTEE**

**12.1.** The provision of a performance guarantee is not required for this contracting.

**13. CLAUSE - CHANGES TO THE CONTRACT**

**13.1.** Pursuant to Article 65, § 1, of Law n° 8.666/93 (Brazil), a CONTRACTED PARTY is required to accept, under the same terms and conditions, any changes involving addition or subtraction the amount of the demand for the services, that may be necessary, at the discretion of BACW, up to the limit of twenty-five percent (25%) of the original total amount of the Contract.

**13.1.1.** Since the demands are estimated due to the characteristics of the OBJECT of this CONTRACT, reductions in the amount that exceeds the limit of twenty-five percent (25%) of the Contract may occur during the performance of the CONTRACT at CONTRACTING PARTY'S sole discretion.

**13.1.2.** The set of increases and the set of decreases shall be calculated based on the original shipments of, or services to be provided under, the Contract, on a case by case basis, without any sort of compensation up to the limits established above.

**14. CLAUSE - PRICE ADJUSTMENT**

**14.1.** The contracted price for the provided services is fixed and cannot be changed within the first 12 months of the Contract performance.

**14.2.** After the first 12-month period, the agreed price may be readjusted, through the request by the CONTRACTED PARTY, and the price adjustment value must be no more than the maximum variation rate indicated in the Customer Price Index for All Urban Consumers (CPI-U) – Expenditure Category – All Items, issued by the Bureau of Labor Statistics – BLS, exclusively for obligations initiated and completed after the 12-month period has taken place.

**14.3.** In the readjustments subsequent to the first one, the minimum interval of 12 months (one year) will be counted from the financial effects of the last readjustment.

**14.4.** In the event of delay or non-disclosure of the readjustment index, the CONTRACTING PARTY will pay the CONTRACTED PARTY the amount calculated by the last known variation, if it is the case, settling the corresponding difference as soon as the definitive index is released.

**14.5.** In the final measurements, the index used for readjustment will necessarily be the definitive one.



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**14.6.** If the index established for readjustment becomes extinct or in any way can no longer be used, it will be adopted, in substitution, the one that will be determined by the Brazilian legislation then in force.

**14.7.** In the absence of legal provision regarding the substitute index, the parties will elect a new official index, to readjust the price of the remaining value, by means of an amendment.

**14.8.** The readjustment will be carried out by an agreement term (“Termo de Apostilamento”) document.

**14.9.** Inclusion of unanticipated benefits not foreseen in the initial price proposal is forbidden, except when they become compulsory under legal instrument.

**14.10.** The CONTRACTING PARTY may perform diligences in order to assure the cost variation proposed by the CONTRACTED PARTY.

**14.11.** Submission of an adjustment proposal by the CONTRACTED PARTY does not imply its acceptance by the CONTRACTING PARTY, which may choose not to renew the contract for the next 12-month period.

## **15. CLAUSE - PAYMENT**

**15.1.** The deadline for payment shall be within thirty (30) calendar days from the date the term of receipt is issued by the Receipt Commission

**15.2.** An Invoice shall be issued by the CONTRACTED PARTY in accordance with the following procedures:

**15.2.1.** Payment shall only be made, after the appropriate official’s “approval” of the Invoice provided by the CONTRACTED PARTY.

**15.2.2.** The “approval” of the Invoice is contingent upon verification of compliance of the Invoice submitted by the CONTRACTED PARTY with the services that were actually performed;

**15.2.2.1.** The CONTRACTED PARTY must submit with its invoice the proof of training containing at least:

**15.2.2.1.1.** The Equipment in which the training was performed;

**15.2.2.1.2.** Amount of training hours;

**15.2.2.1.3.** Squadron which performed the training

**15.2.2.1.4.** Date and Time of training;

**15.2.2.1.5.** Signature of the officers who performed training;

**15.3.** In the event of any mistake in submitting any of the documents required under the previous sub-items or of a situation that prevents fees from being paid, the payment shall remain pending until the CONTRACTED PARTY takes steps to remedy the situation. In this case, the deadline for payment shall take effect after it is verified that the situation has been solved, without any costs to the CONTRACTING PARTY.

**15.4.** Payment shall be made through a bank order of credit, deposit in a bank account, at the branch or bank agency indicated by the CONTRACTED PARTY, or through any other means provided for under the legislation in effect.

**15.5.** The date of payment shall be considered the date when the bank order of payment is actually made.



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**16. CLAUSE - MONITORING**

**16.1.** The MONITOR must be an agent or agents of the Administration, specifically appointed by the Administration, in accordance with the precepts established by Law N° 8.666/1993 (Brazil), ICA n° 65-8/2009 (Attributions of MONITOR and Receiving Commission), and of ICA n° 12-23/2014 (Inspection and Receiving Goods, Services and Administrative Sanctions Application), so as to monitor and inspect the fulfillment of the contract to be executed.

**16.2.** Monitoring of contractual fulfillment consists in verifying the conformity of the services and the allocation of the necessary resources.

**16.3.** Verification of adequate contractual fulfillment must be performed based on the criteria established in the BASIC PROJECT and in accordance with contractual terms.

**16.4.** Contractual performance must be monitored and inspected through oversight instruments including monitoring of the fulfillment of the obligations arising from this CONTRACT.

**16.5.** The MONITOR shall note in his records all events related to the performance of the Contract.

**16.6.** The monitoring of contractual performance carried out by the CONTRACTING PARTY does not eliminate the CONTRACTED PARTY'S responsibility, also before third parties, due to any irregularity, even if arising from technical imperfections, flaws or inadequate use of equipment, and when these incidents occur, they do not imply any responsibility by the CONTRACTING PARTY, its representatives or employees.

**16.7.** For the purposes of this CONTRACT, events shall be considered unforeseeable or caused by force majeure if they fit to legal description provided in single paragraph of article 393 of the Brazilian Civil Code, or terms of line II, §1º, Art. 57 of Federal Law n° 8.666/93 (Brazil).

**16.8.** The MONITOR should, additionally, abide by the following processes:

**16.8.1.** Observe and perform, when applicable, all procedures established in ICA 65-8/2009 and ICA 12-23/2014;

**16.8.2.** Monitor the development of all services requests issued to the CONTRACTED PARTY;

**16.8.3.** Monitor the development of all services until their receipt by CTLA and CABW:

**16.8.4.** Submit for evaluation by the EXPENSE SUPERVISOR all proposals, questioning, discrepancies and difficulties encountered during contractual performance or those requiring approval and/or decision;

**16.8.5.** Receive INVOICES, compare them with the amounts established in the CONTRACT, certify them and forward them to the EXPENSE SUPERVISOR for approval:

**16.8.6.** All INVOICES must be service invoices, detailing- at the very least- unit and total amounts for each cost, duty amounts charged, PROCESSING costs and discounts offered, cargo weight and volume and FAB's request number. All supporting documentation must be attached to the INVOICE for validation by COMREC;

**16.8.7.** If there are other inputs which may influence cost, these must be detailed;

**16.8.8.** Issue, until the fifth day of the following month, a Contract Status Report, in accordance with 65-8/2009 and ICA 12-23 for the Administration.



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## **17. CLAUSE - RECEIPT OF THE OBJECT**

**17.1.** The services that are the object of the CONTRACT shall be received by the Receiving Commission in accordance with the specifications set forth in the BASIC PROJECT, Annex I of this Bid Announcement.

**17.2.** It is the responsibility of the RECEIVING COMMISSION to:

**17.2.1.** Ensure that the CONTRACTED PARTY will follow the description of all the services that are the object of the BASIC PROJECT;

**17.2.2.** Receive services or reject them according to the specifications set forth in the BASIC PROJECT, in up to ten (10) calendar days;

**17.2.3.** Once approved, the invoices are sent to BACW's Contract Department, and

**17.2.4.** All proposals, questions, discrepancies and difficulties encountered during the execution of the CONTRACT, or that require an evaluation shall be presented to the CONTRACT MONITOR for approval and/or a determination must be approved by the Head of the BACW.

## **18. CLAUSE - ALTERATION TO CONTRACTED'S PARTY**

**18.1.** The merger, divestiture, or incorporation of the CONTRACTED PARTY with/within another entity is permitted, provided that all the qualifications set forth in the solicitation continue to be satisfied, all the Contract clauses are maintained, there is no prejudice to the contract execution, and the CONTRACTING PARTY in its discretion formally accepts the foregoing in order to continue with the contract execution.

## **19. CLAUSE - ACTS OF GOD OR FORCE MAJEURE**

**19.1.** Acts of God or force majeure events shall be notified in writing to the Chief of the BACW, through the MONITOR, so that he may decide appropriate course of action, provided it has been proven that such events affect the services performed in connection with the object of this CONTRACT.

**19.2.** For the purposes of this CONTRACT, events shall be considered unforeseeable or caused by force majeure if they fit to legal description provided in single paragraph of article 393 of the Brazilian Civil Code, or terms of line II, §1º, Art. 57 of the Brazilian Federal Law No. 8.666/93.

## **20. CLAUSE – VIOLATIONS AND ADMINISTRATIVE SANCTIONS**

**20.1.** Any violations to the clauses contained in this Contract and in the Basic Project will be held by item 17 of the BASIC PROJECT, Annex A to this CONTRACT.

## **21. CLAUSE – LINKAGE**

**21.1.** This Contract is hereby linked to the Invitation for Bid No. 221692/CABW/2022, and the Commercial Proposal of the CONTRACTED PARTY, submitted by company [COMPANY'S NAME] to the BACW.



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## **22. CLAUSE – TERMINATION**

**22.1.** Pursuant to the provisions of Article 78 of Lei n° 8,666/93 (Brazil), the following are causes for terminating this Contract:

- 22.1.1.** Failure to comply with CONTRACT clauses, specifications, projects and deadlines;
- 22.1.2.** Inappropriate compliance with CONTRACT clauses, specifications, projects and deadlines;
- 22.1.3.** Slowness in its compliance which may lead the CONTRACTING PARTY to find it impossible to complete the services within the established deadlines;
- 22.1.4.** Unjustifiable delay in initiating service;
- 22.1.5.** Stoppage in the service, without cause, and without providing previous notice to the CONTRACTING PARTY;
- 22.1.6.** Failure to comply with orders from the authority designated to follow up and supervise the performance of services, or higher authorities;
- 22.1.7.** Repeatedly making errors in the performance of services, duly recorded pursuant to § 1 of Article 67 of Law n° 8,666/93 (Brazil);
- 22.1.8.** Bankruptcy;
- 22.1.9.** Dissolution of company or death of the CONTRACTED PARTY;
- 22.1.10.** Corporate change or alteration of purpose or business of the CONTRACTED PARTY that hinders the performance of the CONTRACT;
- 22.1.11.** Reasons of public interest (Brazil) that are of high importance, broadly publicized, justified and ordered by a higher executive authority with jurisdiction over CONTRACTING PARTY, based on an administrative case referred to in the CONTRACT;
- 22.1.12.** Suspension of service, through a written order of the CONTRACTING PARTY, for more than one hundred twenty (120) days, in the event of a disasters, domestic disturbances or war, or also repeated suspensions that add up to 120 days. In addition to the required payment of indemnification to the CONTRACTED PARTY, it is also entitled in these cases to suspend complying with its obligations until normalcy is achieved;
- 22.1.13.** A delay for more than ninety (90) days in making payments due by the CONTRACTING PARTY, for services, supply and work already received and performed, except in the event of a disasters, domestic disturbances or war. The CONTRACTED PARTY shall be entitled to suspend compliance with its obligations until normalcy is achieved;
- 22.1.14.** Failure of the CONTRACTING PARTY to release the object for the performance of services within the established deadlines;
- 22.1.15.** Acts of God or force majeure that prevents performance of the CONTRACT, which is to be duly demonstrated;
- 22.1.16.** Violation of the provisions of items V of Article 27 of Law n° 8,666/93 (Brazil), notwithstanding the applicable criminal sanctions.

**22.2.** Termination will be formally recorded under the law, with the right of due process and ample defense ensured.

**22.3.** Termination of this CONTRACT may be:

- 22.3.1.** Decided unilaterally and in writing by the CONTRACTING PARTY in the event listed under in items 1 to 10, and 16, of this CLAUSE;



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**22.3.2.** Agreeable, through an agreement between the parties, entered as an addendum in the process, provided it is convenient to the CONTRACTING PARTY; and

**22.3.3.** Judicially, pursuant to applicable legislation.

**22.4.** The Administrative or agreeable termination shall be preceded by written and well-grounded authorization by the appropriate authority.

**22.5.** When termination is based on Items 11 through 15 of this CLAUSE, without fault of the CONTRACTED PARTY, it shall be entitled to receive payments due for the performance of the CONTRACT up to the date of termination. Under no circumstances shall CONTRACTED PARTY be entitled to any indirect or consequential damages, including lost profits, due to termination.

**22.6.** Termination for failure to comply with contractual clauses shall cause warranty to be forfeited to be applied toward compensating the CONTRACTING PARTY for the fines and indemnifications that are due. Any credits arising from the CONTRACT shall be withheld up to the limits of the losses caused to the CONTRACTING PARTY, in addition to the sanctions provided for herein.

**22.7.** The term of terminations shall include, as appropriate:

**22.7.1.** Assessment of contract services provided and those that have been fully completed;

**22.7.2.** List of payments made and payments due; and

**22.7.3.** Indemnifications and fines.

## **23. CLAUSE – JURISDICTION AND CHOICE OF LAW**

**23.1.** This Contract shall be construed and interpreted in accordance with the **principles** of Brazilian Law N° 8,666/93, and shall be governed by and enforced in accordance with the laws of the District of Columbia, including the Uniform Commercial Code as adopted in the District of Columbia, without regard to any choice of law or conflict of laws doctrines that might otherwise be applied. The UN Convention on Contracts for the International Sale of Goods shall have no application to this Contract.

**23.2.** The parties hereto agree to make a diligent, good-faith attempt to amicably resolve all disputes before either party commences litigation pursuant to this Clause 22 of this Contract.

**23.3.** Any dispute or claim arising out of or relating to this Contract, with a breach thereof, shall be submitted to the District of Columbia Superior Court or the United States District Court for the District of Columbia, to the exclusive jurisdiction of which the parties hereby irrevocably submit.

## **24. CLAUSE – CORRESPONDENCE AND NOTIFICATION**

**24.1.** All correspondence, reports and notifications arising from the execution of this CONTRACT shall be made in writing and shall only be considered to be received by the CONTRACTING PARTY and the CONTRACTED PARTY if delivered to the addresses indicated below by one party to the other party or to any other addresses that may be communicated by the PARTIES throughout the term of this Contract.



-----MINUTA / CONTRACT DRAFT-----

**CONTRACTING PARTY:**

BRAZILIAN AERONAUTICAL COMMISSION IN WASHINGTON

Attn: Bidding and Contracts Division

1701 22<sup>nd</sup> Street NW, Washington, D.C. 20008 - USA

Phone: +1 202-518-7348

Fax: +1 202-483-4684

E-mail: [chf.dlc.cabw@fab.mil.br](mailto:chf.dlc.cabw@fab.mil.br)

**CONTRACTED PARTY:**

Name of the CONTRACTED PARTY

Attn: Mr./Mrs. Name of Legal Representative

Address 1:

Address 2:

Phone:

Fax

E-mail:

*"Intentionally left blank"*



-----**MINUTA / CONTRACT DRAFT**-----

**25. CLAUSE – NUMBER OF THE COPIES**

**25.1.** It is hereby agreed that this CONTRACT shall be issued in two (2) originals, with same content and form, as follows:

**25.1.1.** (One) original for the CONTRACTING PARTY; and

**25.1.2.** (One) original for the CONTRACTED PARTY.

**25.2.** In witness whereof, the parties have executed this CONTRACT in two (2) equal counterparts, of equal content, in the presence of the witnesses subscribed below.

Washington, DC, **MM/DD/2022.**

**For the CONTRACTING PARTY:**

\_\_\_\_\_  
\*MINUTA/DRAFT\*

Wilson Paulo Corrêa Marques, Col  
Head of the BACW

**For the CONTRACTED PARTY:**

\_\_\_\_\_  
\*MINUTA/DRAFT\*

NAME

**WITNESSES:**

\_\_\_\_\_  
\*MINUTA/DRAFT\*

Valdinei Fagundes de Souza, Lt Col  
Head of the BACW's Fiscal Division

\_\_\_\_\_  
\*MINUTA/DRAFT\*

Roberta Grazielly Costa Souza, Lt Col  
Head of the BACW's Bidding and Contract Division

**WITNESSES for the CONTRACTED PARTY:**

\_\_\_\_\_  
\*MINUTA/DRAFT\*

NAME: ..... ID n° .....





-----**MINUTA / CONTRACT DRAFT**-----

## ANNEX A

**BASIC PROJECT**

DRAFT



-----**MINUTA / CONTRACT DRAFT**-----

## ANNEX B

**PRICE PROPOSAL**

DRAFT



-----MINUTA / CONTRACT DRAFT-----

**ANNEX C**  
**PHYSICAL AND FINANCIAL SCHEDULE**

<b>PHASE</b>	<b>DESCRIPTION</b>	<b>VALUE (US\$)</b>	<b>TERM FOR EXECUTION</b>	<b>TERM FOR PAYMENT</b>
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
<b>TOTAL (US\$)</b>		<b>XXXXXX</b>		